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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/736,908	12/14/2000	Kaushal Kurapati	US000387	8381

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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EXAMINER

SALCE, JASON P

ART UNIT	PAPER NUMBER
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2614

DATE MAILED: 09/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/736,908

Applicant(s)

KURAPATI, KAUSHAL

Examiner

Jason P. Salce

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

In regards to the 101 non-statutory rejections of the claims, the examiner's rejection stands.

Applicant has cited *AT&T Corp. v. Excel Communications, Inc.*, stating, "claims drawn to a long-distance telephone billing process containing mathematical algorithms were held to be directed to patentable subject matter because "the claimed process applies the Boolean principle to produce a useful, concrete tangible result without pre-empting other uses of the mathematical principle" MPEP 2106 II (A)".

Claim 1 in the *AT&T Corp. v. Excel Communications, Inc.* case states, "A method for use in a telecommunications system in which interexchange calls initiated by each subscriber are automatically routed over the facilities of a particular one of a plurality of interexchange carriers associated with that subscriber, said method comprising the steps of:

generating a message record for an interexchange call between an originating subscriber and terminating subscriber, and including, in said message record, a primary interexchange carrier (PIC) indicator having a value which is a function of whether or not the interexchange carrier associated with said terminating subscriber is a predetermined one of said interexchange carriers."

The claim clearly shows a technologically embodied telecommunication system, where interexchange calls are made between an originating and terminating

subscriber, and a record is kept with a specific value determining if the terminating subscriber is predetermined or not. Such a system does not represent an abstract idea.

In contrast, the Applicant's method for recommending items by calculating recommendation score and adjusting a value accordingly clearly represents an abstract idea that can be performed with a pencil and paper. The PIC in AT&T was a useful, tangible and concrete result as apposed to applicant's result which is a number calculated from another number using a recommendation equation. Applicant's score is similar to one calculating a distance number from another distance number using the right triangle equation.

In regards to the 102(b) rejections, the examiner agrees with Applicant, however it appears that the examiner has made a typographical error and this rejection should have been made under U.S.C. 103(a). Therefore, the rejection remains the same, and the examiner has corrected the header to represent the proper statute to be used in the rejection of Herz in view of Raunch.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-22 rejected under 35 U.S.C. 103(a) as being unpatentable over Herz et al. (U.S. Patent No. 5,758,257) in further view of Rauch et al. (U.S. Patent No. 5,758,257).

Referring to claim 1, Herz discloses obtaining a list of one or more available items (see Column 24, Lines 66-67 and Column 25, Lines 1-2 for downloading a list of programs and Column 21, Lines 15-29 for a sample content profile).

Herz also discloses obtaining a recommendation score, R, for said one or more available items (see Column 25, Lines 7-15 for the set-top box containing preference data in a customer profile and Column 20, Lines 55-65 for a sample customer profile, which provides more than one recommendation score).

Herz also discloses calculating an adjustment, A, to said recommendation score, R (one of the scores in the user's customer profile), based on a consistency with which an item was selected by a user relative to the number of times the item was offered (see Figure 3 and Column 26, Lines 51-60 for adjusting the customer profile using a passive monitoring feature (see description below)). Also note Column 14, Lines 4-7, Column 30, Lines 48-67 and Column 31, Lines 1-14 for how the calculated adjustment is made by passive updating of the customer profile. Note that the passive updating of the customer profile consists of adjusting a customer profile to predict the movies he or she watched (see Column 31, Lines 6-8), therefore the adjustment (values in updated customer profile) calculated for the recommendation scores (values in initial customer profile) is based on the consistency with which an item was selected by a user relative to the number of times the item was offered (user selected the movie for viewing (see Column 33, Lines 18-20)).

Herz also discloses generating a combined recommendation score, C, based on said recommendation score, R, and said adjustment, A (see Column 27, Lines 4-6 for recalculating the agreement matrix once the customer profile is adjusted).

Although Herz discloses calculating the adjustment based on a consistency, Herz fails to disclose that the consistency is calculated using a ratio of an item being selected by a user relative to the number of times the item was offered.

Raunch discloses selecting a topic from a plurality of topics and incrementing a counter that tracks how often a topic is selected (see Column 11, Line 55 through Column 12, Line 14). Once the counter has been incremented the topics are ranked in a list, where the mostly frequently displayed topic is ranked at the top and the least frequently displayed topic is displayed last (Column 12, Lines 15-20). The examiner notes that since the list is reordered based on the frequency of a topic selection, the system would inherently have to determine a ratio of the number of times a topic is selected and the number of times the a topic was offered in order to determine the rank in the list. For example, if a user selects sports 9 times out of 10 offerings and selects romance 1 time out of 10 offerings, then sports is ranked higher than romance. Therefore, no ranking could take place without such a determination.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the consistency calculation method, as taught by Herz, using the ratio calculation method, as taught by Raunch, for the purpose of providing a user with efficient selection of television programs to view and record (see Column 4, Lines 21-24 of Raunch).

Referring to claim 2, Herz discloses that the list of one or more items are programs obtained from an electronic program guide (see Column 24, Lines 66-67 and Column 25, Lines 1-2 for the content profile containing electronic program guide information).

Referring to claim 3, Herz discloses that recommendation score, R, is provided by an explicit program recommender (see Column 12, Lines 11-18 for the user explicitly defining a user profile).

Referring to claim 4, Herz discloses that recommendation score, R, is provided by an implicit program recommender (see Column 11, Lines 63-66 for implicitly (based on what the user watches) defining a user profile).

Referring to claim 5, Herz discloses that the recommendation score, R, is defined as a weighted average of individual ratings of program features (see Column 13, Lines 45-49 for providing a customer profile using the average weights of other customers in order to provide a weighted average value in a customer profile). Note that the average weights are only provided for the case where a profile is implicitly defined, therefore the individual (each customer's) ratings of program features (location, demographics, what a customer watches) are averaged with other customers to provide the customer profile (which holds multiple recommendation scores) (see Column 11, Lines 26-29 and Lines 65-66).

Referring to claim 6, Herz discloses presenting the combined recommendation score, C, for each of said one or more programs to a user (see Column 45, Lines 50-55 for displaying a user's customer profile and the ability to modify the customer profile if

needed). Also note Column 45, Lines 56-67 and Column 46, Lines 1-18 for further discussion of the user interfaced used to view and modify a customer profile (recommendation scores) and agreement matrix values (combined scores).

Referring to claim 7, Herz discloses that the adjustment to said recommendation score, R, does not exceed a predefined value (see Column 19, Lines 53-63 for the variable ac (level of agreement between two profiles) calculated in the agreement matrix will not exceed 1). The examiner notes that 1 is the highest level of agreement when calculating the agreement matrix, therefore the adjusted values cannot exceed the predetermined value of 1 (see Column 21, Lines 35-63 for calculating the adjustment, A, to recommendation scores, R, and the combined scores, C, and that all of the calculated values do not exceed 1).

Referring to claims 8-9, see the rejection of claim 1.

Referring to claim 10, see the rejection of claim 2.

Referring to claim 11, see the rejection of claim 1 and note that Herz discloses a memory for storing computer readable code and a processor operatively coupled to the memory (see elements 1006 and 1012 in Figure 10).

Referring to claims 12-17, see the rejection of claims 2-7, respectively.

Referring to claims 18-19, see the rejection of claim 11.

Referring to claim 20, see the rejection of claim 12.

Referring to claims 21-22, see the rejection of claim 11.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P. Salce whose telephone number is (571) 272-7301. The examiner can normally be reached on M-F 9am-6pm.

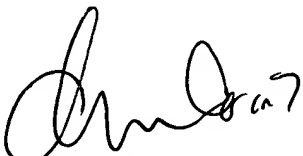
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2614

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jason P Salce
Patent Examiner
Art Unit 2614

September 6, 2005



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